

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MARIA CASTELLANOS,  
Plaintiff,

v.

COUNTRYWIDE BANK NA, et al.,  
Defendants.

Case No. [15-cv-00896-BLF](#)

**ORDER TO SHOW CAUSE; NOTICE  
OF IMMINENT DISMISSAL**

On June 30, 2015, the Court granted Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc., National Default Servicing Corporation, and Select Portfolio Servicing, Inc.'s (collectively, "Defendants") motion to dismiss Plaintiff's complaint with leave to amend. *See* ECF No. 32. The Court's order granted Plaintiff up to and including July 24, 2015 to file a first amended complaint. *Id.* Plaintiff failed to file an amended complaint. On July 29, 2015, Defendants filed a notice of lodgment of proposed dismissal. *See* ECF No. 33. As of August 19, 2015, Plaintiff has not responded to Defendants' filing. The failure to amend a complaint is considered a failure to comply with a Court order and is grounds for dismissal of this action with prejudice under Federal Rule of Civil Procedure 41(b). *See Yourish v. Calif. Amplifier*, 191 F.3d 983, 986 (9th Cir. 1999).

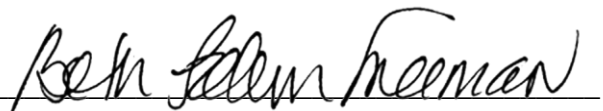
Further, Plaintiff filed her complaint on February 27, 2015, *see* ECF No. 1, and there is no evidence in the Court records that Plaintiff has served Countrywide Bank NA (n/k/a Bank of America), Reconstruct Company, or Countrywide Home Loans, Inc. (n/k/a BAC Home Loans Servicing, LP) with the summons and complaint. An unreasonable delay in service is considered a failure to prosecute and is also grounds for dismissal of this action with prejudice under Federal Rule of Civil Procedure 41(b). *See Bowling v. Hasbro, Inc.*, 403 F.3d 1373, 1375-77 (Fed. Cir.

2005) (applying the law of the Ninth Circuit).

Accordingly, the Court ORDERS Plaintiff to show cause **on or before August 31, 2015** why this action should not be dismissed with prejudice for failure to comply with a court order and for failure to prosecute. If Plaintiff does not respond, the Court will dismiss the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) without further notice.

**IT IS SO ORDERED.**

Dated: August 19, 2015

  
BETH LABSON FREEMAN  
United States District Judge

United States District Court  
Northern District of California